

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

MINETTE BLAKE, Individually and as
Next Friend of LEIGHTON CLARKE, JR.,
a Minor; and as Next Friend of LACY
CLARKE, a Minor; ORETHIA BLAKE,
Individually; LEIGHTON CLARKE,
Individually; JANICE DEPOY, Individually
and as Next Friend of ALLESHA
COOPER, a Minor, and TAMLA GRAY, Individually,

Plaintiffs,

Case No.: 18-005474-NO

vs.

Honorable William C. Marietti

WAL-MART STORE, INC. and
WAL-MART STORES EAST,
LIMITED PARTNERSHIP,
Jointly and Severally,

Defendants.

GEOFFREY N. FIEGER (P30441)
DONALD H. DAWSON, JR. (P29692)
KEVIN C. RIDDLE (P57435)
Fieger, Fieger, Kenney
& Harrington P.C.
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NOTICE OF REMOVAL

TO: Donald Dawson, Esq., and Muskegon County Circuit Court Clerk

Please take notice that Defendants, Wal-Mart Stores, Inc., and Wal-Mart Stores East, Limited Partnership, through their attorneys, Plunkett Cooney, have, this day, filed their Petition for Removal, a copy of which is attached hereto, via electronically filing the same by use of the ECF system for the United States District Court, Western District of Michigan.

Respectfully submitted,

PLUNKETT COONEY
/s/ Carolyn M. Jereck

By:

Carolyn M. Jereck (P41748)
Lanae L. Monera (P55604)
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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**PETITION FOR REMOVAL OF CAUSE TO THE UNITED STATES
DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN,
SOUTHERN DIVISION**

Please take notice that pursuant to 28 USC §§ 1332, 1441 and 1446, Defendants Wal-Mart Stores, Inc. and Wal-Mart Stores East, Limited Partnership, through their attorneys, Plunkett Cooney, hereby remove this action from the Judicial Circuit Court for the County of Muskegon, State of Michigan, to the United States District Court for the Western District of Michigan, Southern Division. In support thereof, Defendants state as follows:

1. The above-captioned matter was filed in the State of Michigan, Muskegon County Circuit Court, Case Number: 18-005474-NO on or about October 17, 2018, and is now pending in that Court. A true and correct copy of the Complaint is attached as **Exhibit A**.

2. Defendants were served with a copy and notification of the Summons and Complaint on January 9, 2019. Attached as **Exhibit B** is a true and correct copy of the Service of Process Transmittal. Thus, in accordance with requirements of 28 USC § 1446(b), this Notice of Removal is filed within 30 days after service on Defendants of a copy of the Summons and Complaint setting forth the claims for relief upon which removal is based.

3. This Court has subject matter jurisdiction pursuant to 28 USC § 1332(a) because (1) Plaintiffs and Defendants are citizens of different states, and (2) the actual amount placed in controversy exceeds the sum or value of \$75,000, exclusive of costs and interests.

4. Specifically, Plaintiffs allege in their Complaint that Plaintiffs MINETTE BLAKE, LEIGHTON CLARKE, JR., LACY CLARKE, ORETHIA BLAKE, JANICE DEPOY and ALLESHA COOPER, are residents of the County of Muskegon, State of Michigan; Plaintiff LEIGHTON CLARKE is a resident of the County of Broward, State of Florida and Plaintiff TAMLA GRAY, is currently a resident of the Caribbean island nation of Jamaica. (**Exhibit A**, ¶¶ 1, 3, 4, 5, 6, 8 and 9).

5. Defendants WAL-MART STORES, INC., and WALMART STORES EAST, L.P., are each Delaware Corporations having their principal place of business located in the State

of Arkansas. (**Exhibit A**, ¶¶ 10 and 11 and **Exhibit C**- Registered Agent Corporations Documentation)

6. As set forth in the Complaint, Plaintiffs have stated a generalized demand that “greatly exceeds” \$25,000 (**Exhibit A**, ¶13). Given the number of parties as well as the nature and extent of the injuries allegedly sustained, e.g., multiple fractures which required surgical repair, prolonged hospital stays, a traumatic brain injury impacting one plaintiff, additional head injuries as to others, right shoulder separation requiring surgical repair, follow-up care as to each; in addition to medical expenses — past and future; other economic losses and noneconomic damages alleged to include conscious pain and suffering; emotional distress, anxiety, mental anguish, fright and shock, Defendants are quite confident that Plaintiffs seek, in reality, to recover damages that do, in fact, exceed \$75,000, exclusive of interest and costs in this matter.

7. Accordingly, in reality, this action involves a controversy between citizens of the State of Michigan, State of Florida and County of Jamaica on one hand as Plaintiffs, having complete diversity as to Defendants involving a controversy of more than \$75,000 and is therefore properly removed pursuant to 28 USC 1332(a); 28 USC § 1441(b).

8. A true and correct copy of this Notice of Removal will be filed with the Clerk of the 14th Judicial Circuit Court for the County of Muskegon, Sate of Michigan, and served upon counsel for Plaintiffs pursuant to 28 USC §1446(d).

10. In filing this Notice of Removal, Defendants do not waive, and specifically reserve, all defenses, exceptions, rights and motions. No statement herein or omission herefrom shall be deemed to constitute an admission by Defendants of any of the allegations of or damages alleged against them as sought in the Complaint.

WHEREFORE, Defendants WAL-MART STORES, INC., and WAL-MART STORES EAST, LIMITED PARTNERSHIP, respectfully request that this matter proceed in this Court as an action properly removed.

Respectfully submitted,

PLUNKETT COONEY

/s/ Carolyn M. Jereck

By:

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Lanae L. Monera (P55604)
Attorneys for Defendants
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VERIFICATION

Carolyn M. Jereck, being first duly sworn, deposes and says that she is one of the attorneys retained to represent Defendants Wal-Mart Stores, Inc. and Wal-Mart Stores East, Limited Partnership, and that the foregoing Petition for Removal is true in substance and in fact to the best of her knowledge,

Respectfully submitted,

PLUNKETT COONEY

/s/ Carolyn M. Jereck

By:

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

INDEX OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A	Complaint and Demand for Jury Trial
B	Service of Process Transmittal and Division of Corporations Registered Agent Information for Wal-Mart
C	Corporations Registered Agent Information for CT Corporations – Wal-Mart Stores, Inc.; Michigan Department of Licensing and Regulatory Affairs Foreign Corporation Annual Report 2016

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PROOF OF SERVICE

Carolyn M. Jereck verifies that copies of Defendants' Wal-Mart Stores, Inc. and Wal-Mart Stores East, Limited Partnership's Petition for Removal; Notice of Removal and Verification in said cause were served on attorney of record Donald Dawson, Esq. and the Muskegon County Circuit Court Clerk, via U.S. Mail on January 30, 2019,

/s/ Carolyn M. Jereck
CAROLYN M. JERECK (P41748)

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